

RESOLUTION NO. R-2006-0915

RESOLUTION APPROVING ZONING APPLICATION PDD2006-017
(CONTROL NO. 2005-641)
OFFICIAL ZONING MAP AMENDMENT
TO A PLANNED DEVELOPMENT DISTRICT (PDD)
APPLICATION OF FLORIDA AUTO AUCTION OF ORLANDO, JMC IV REAL ESTATE
COMPANY, PALM BEACH NEWSPAPERS, INC.
BY KILDAY & ASSOCIATES, INC., AGENT
(WEST PALM BEACH AUTO AUCTION MUPD)

WHEREAS, the Board of County Commissioners, as the governing body of Palm Beach County, Florida, pursuant to the authority vested in Chapter 163 and Chapter 125, Florida Statutes, is authorized and empowered to consider petitions relating to zoning; and

WHEREAS, the notice and hearing requirements, as provided for in Article 2 (Development Review Procedures) of the Palm Beach County Unified Land Development Code (Ordinance 2003-067, as amended), have been satisfied; and

WHEREAS, Zoning Application PDD2006-017 was presented to the Board of County Commissioners at a public hearing conducted on May 25, 2006; and,

WHEREAS, the Board of County Commissioners has considered the evidence and testimony presented by the petitioner and other interested parties, the recommendations of the various county review agencies, and the recommendation of the Zoning Commission; and

WHEREAS, the Board of County Commissioners has considered the findings in the staff report and the following findings of fact:

1. This official zoning map amendment (rezoning) is consistent with the Palm Beach County Comprehensive Plan;
2. This official zoning map amendment (rezoning) is consistent with the requirements of the Palm Beach County Unified Land Development Code;
3. This official zoning map amendment (rezoning) with approved conditions is compatible with surrounding uses and zones, as defined in the Palm Beach County Unified Land Development Code, is generally consistent with existing uses and zones surrounding the subject land, and is the appropriate zoning district for the land;
4. This official zoning map amendment (rezoning) with approved conditions does not result in significantly adverse impacts on the natural environment, including but not limited to water, air, stormwater management, wildlife, vegetation, wetlands, and the natural functioning of the environment;
5. This official zoning map amendment (rezoning) with approved conditions will result in a logical and orderly development pattern;
6. This official zoning map amendment (rezoning) complies with Article 2.F, (Adequate Public Facilities) of the Palm Beach County Unified Land Development Code, Ordinance 2003-067; and,
7. This official zoning map amendment (rezoning) with approved conditions is consistent with the requirements of all other applicable local land development regulations.

WHEREAS, Article 2.K.3.b (Action by Board of County Commissioners) of the Palm Beach County Unified Land Development Code requires that the action of the Board of County Commissioners be adopted by resolution.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that Zoning Application PDD2006-017, the application of Florida Auto Auction of Orlando, JMC IV Real Estate Company, Palm Beach Newspapers, Inc., by Kilday & Associates, Inc., Agent, for an Official Zoning Map Amendment to a Planned Development District from the Agricultural Residential, the Light Industrial and the Public Ownership Zoning Districts to the Multiple Use Planned Development District on a parcel of land legally described in EXHIBIT A, attached hereto and made a part hereof, and generally located as indicated on a vicinity sketch attached as EXHIBIT B, attached hereto and made a part hereof, was approved on May 25, 2006, subject to the conditions of approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Marcus moved for the approval of the Resolution.

The motion was seconded by Commissioner McCarty and, upon being put to a vote, the vote was as follows:

Tony Masilotti, Chair	-	Aye
Addie L. Greene, Vice Chairperson	-	Aye
Karen T. Marcus	-	Aye
Jeff Koons	-	Aye
Warren H. Newell	-	Aye
Mary McCarty	-	Aye
Burt Aaronson	-	

The Chairman thereupon declared that the resolution was duly passed and adopted on May 25, 2006.

Filed with the Clerk of the Board of County Commissioners on 25th day of May, 2006.

This resolution is effective when filed with the Clerk of the Board of County Commissioners.

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

SHARON R. BOCK,
CLERK & COMPTROLLER

BY:


COUNTY ATTORNEY

BY:


DEPUTY CLERK



EXHIBIT A

LEGAL DESCRIPTION

BEING ALL OF TRACTS 14, 15, 22 AND A PORTION OF TRACTS 9, 13, 16, 21 AND A PORTION OF THE 30 FOOT ROADWAYS, BLOCK 7, PALM BEACH FARMS COMPANY PLAT NO. 2, PLAT BOOK 2, PAGES 45 THROUGH 54, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, AND ALL OF LOT 2 AND TRACT R-1, PALMS WEST INDUSTRIAL PARK, PLAT BOOK 71, PAGES 75 THROUGH 77, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, DESCRIBED AS FOLLOWS:

BEGINNING AT INTERSECTION OF THE SOUTH LINE OF SAID TRACT 21 WITH THE EAST RIGHT OF WAY LINE OF SANSBURY'S WAY, SAID EAST RIGHT OF WAY LINE BEING A LINE 40.00 FEET EAST OF AND PARALLEL WITH WEST LINE OF SAID TRACT 21, RUN THENCE NORTH 00°56'58" WEST ALONG SAID EAST RIGHT OF WAY LINE, A DISTANCE OF 2008.26 FEET TO A POINT OF THE NORTH LINE OF SAID TRACT 9; THENCE NORTH 89°03'49" EAST ALONG SAID NORTH LINE, A DISTANCE OF 619.19 FEET TO THE NORTHEAST CORNER OF SAID TRACT 9; THENCE SOUTH 00°57'46" EAST ALONG THE EAST LINE OF SAID TRACT 9, A DISTANCE OF 396.59 FEET TO A POINT ON THE WESTERLY EXTENSION OF THE NORTH LINE OF SAID LOT 2; THENCE NORTH 89°02'21" EAST ALONG SAID WESTERLY EXTENSION AND ALONG SAID NORTH LINE, A DISTANCE OF 477.06 FEET; THENCE NORTH 00°55'47" WEST ALONG THE WEST LINE OF SAID LOT 2, A DISTANCE OF 397.59 FEET TO THE NORTHWEST CORNER OF SAID LOT 2; THENCE NORTH 89°01'50" EAST ALONG SAID NORTH LINE, A DISTANCE OF 213.00 FEET TO THE NORTHEAST CORNER OF SAID LOT 2; THENCE SOUTH 00°55'47" EAST ALONG THE EAST LINE OF SAID LOT 2 AND A SOUTHERLY EXTENSION THEREOF, A DISTANCE OF 674.94 FEET TO A POINT ON A LINE 15.00 FEET NORTH OF AND PARALLEL WITH THE NORTH LINE OF SAID TRACT 14; THENCE NORTH 89°02'17" EAST ALONG SAID PARALLEL LINE, A DISTANCE OF 989.92 FEET TO A POINT ON THE NORTHERLY EXTENSION OF THE EAST LINE OF SAID TRACT 14; THENCE SOUTH 00°56'45" EAST ALONG SAID NORTHERLY EXTENSION AND ALONG THE EAST LINE OF SAID TRACT 14, A DISTANCE OF 281.82 FEET TO A POINT ON A LINE 30.00 FEET NORTH OF AND PARALLEL WITH THE NORTH LINE OF BENOIST FARMS INDUSTRIAL PARK NORTH, PLAT BOOK 63, PAGES 65 AND 66, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA; THENCE NORTH 89°01'58" EAST ALONG SAID PARALLEL LINE, A DISTANCE OF 910.48 FEET; THENCE SOUTH 00°55'49" EAST, A DISTANCE OF 30.00 FEET TO A POINT ON AN EASTERLY PROJECTION OF THE SAID NORTH LINE OF BENOIST FARMS INDUSTRIAL PARK NORTH; THENCE SOUTH 89°01'58" WEST ALONG SAID EASTERLY PROJECTION AND ALONG SAID NORTH LINE, A DISTANCE OF 910.47 FEET TO THE NORTHWEST CORNER SAID PLAT OF BENOIST FARMS INDUSTRIAL PARK NORTH; THENCE SOUTH 00°56'45" EAST ALONG THE WEST LINE OF SAID PLAT, A DISTANCE OF 361.47 FEET TO THE SOUTHEAST CORNER OF SAID TRACT 14; THENCE SOUTH 89°00'27" WEST ALONG THE SOUTH LINE OF SAID TRACT 14, A DISTANCE OF 989.82 FEET TO THE NORTHEAST CORNER OF SAID TRACT 22; THENCE SOUTH 00°57'30" EAST ALONG THE EAST LINE OF SAID TRACT 22, A DISTANCE OF 659.93 FEET TO THE SOUTHEAST CORNER OF SAID TRACT 22; THENCE SOUTH 89°01'26" WEST ALONG THE SOUTH LINE OF SAID TRACTS 22 AND 21, A DISTANCE OF 1309.41 FEET TO THE POINT OF BEGINNING.

CONTAINING 3134015 SQUARE FEET OR 71.947 ACRES, MORE OR LESS.

EXHIBIT B

VICINITY SKETCH

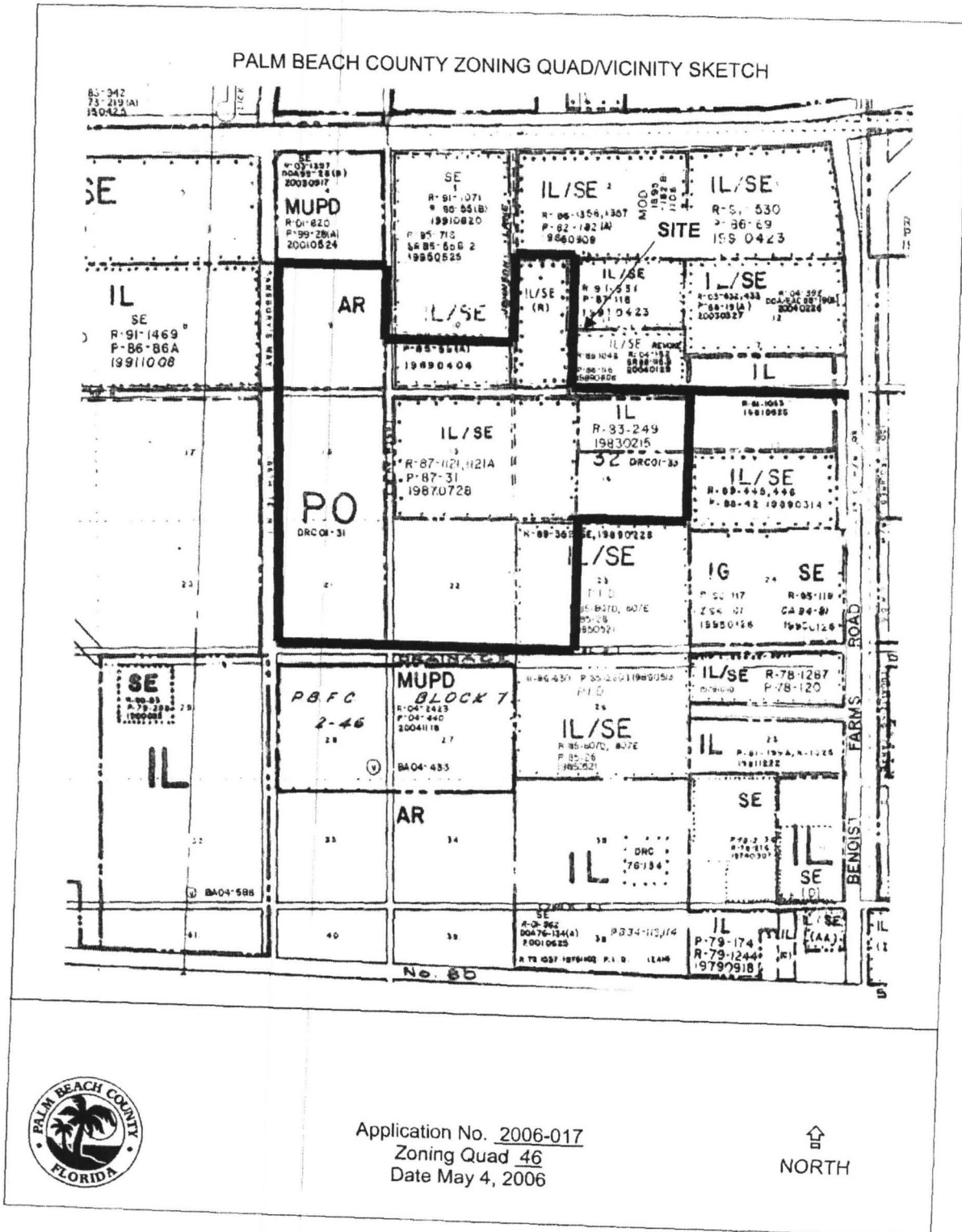


EXHIBIT C

CONDITIONS OF APPROVAL

ALL PETITIONS

1. Development of the site is limited to the uses approved by the Board of County Commissioners. The approved site plan is dated March 9, 2006. All modifications must be approved by the Board of County Commissioners or Zoning Commission unless the proposed changes are required to meet conditions of approval or are in accordance with the ULDC. (DRO: ZONING - Zoning)

ARCHITECTURAL REVIEW

1. At time of submittal for final Development Review Officer (DRO) approval, the architectural elevations for the proposed auto paint and body shop, auction building and security building shall be submitted simultaneously with the site plan for final architectural review and approval. Elevations shall be designed to be consistent with Article 5.C of the ULDC. Development shall be consistent with the approved architectural elevations, the DRO approved site plan, all applicable conditions of approval, and all ULDC requirements. (DRO: ARCH REVIEW - Zoning)
2. The maximum height of the buildings shall be thirty-five feet, excluding architectural features which shall not exceed a maximum height of forty (40) feet and shall be generally consistent with the elevations prepared by Don D. Walter, Architect and dated December 30, 2005. All heights shall be measured from finished grade to the highest point of the building, including air conditioning, mechanical equipment, satellite dishes and architectural features. (DRO: ARCH REVIEW -Zoning)
3. Design of gutters and downspouts shall be integrated into the architectural design of proposed buildings. Painting of the gutters and downspouts shall not constitute architectural integration. (DRO: ARCH REVIEW - Zoning)
4. At time of issuance of the certificate of occupancy (CO) for the expansions to Building A, existing Buildings C and D will be painted a color consistent with the color of Building A. (CO: ARCH REVIEW-Zoning)

ENGINEERING

1. Prior to August 1, 2006 the property owner shall convey a temporary roadway construction easement along Sansbury Way to Palm Beach County. Construction by the applicant within this easement shall conform to all Palm Beach County Standards and Codes. The location, legal sketches and the dedication documents shall be approved by the County Engineer prior to final acceptance.(DATE: MONITORING-Eng)
2. The Property owner shall construct a left turn lane south approach on Benoist Farms Road at Falcon Crane Way.
 - A. This construction shall be completed prior to June 1, 2007. Any and all costs associated with the construction shall be paid by the property owner. These costs shall include, but are not limited to, utility relocations and acquisition of any additional required right-of-way.
 - B. Permits required by Palm Beach County for this construction shall be obtained prior March 1, 2007. (DATE: Monitoring-Eng)
 - C. Construction shall be completed prior to the issuance of the first Certificate of Occupancy. (DATE: MONITORING-Eng)

3. CORRIDOR CONVEYANCE OF RIGHT OF RIGHT OF WAY

- The property owner shall convey to Palm Beach County Land Development Division by warranty deed for:
 - a. Benoist Farms Road, 80 feet west of the ultimate west right of line of the LWDD E2 Canal.
 - b. 25-foot Corner Clip at the northeast and southeast corners of the intersection of Sansbury Way and Fairgrounds Road.
 - c. Sansbury Way, 60 feet from centerline
 - d. All right of way shall be dedicated prior to August 1, 2006. Right of way conveyance shall be free of all encumbrances and encroachments. Property owner shall provide Palm Beach County with sufficient documentation acceptable to the Right of Way Acquisition Section to ensure that the property is free of all encumbrances and encroachments. The Grantor further warrants that the property being conveyed to Palm Beach County meets all appropriate and applicable environmental agency requirements. In the event of a determination of contamination which requires remediation or clean up on the property now owned by the Grantor, the Grantor agrees to hold the Grantee harmless and shall be responsible for all costs of such clean up, including but not limited to, all applicable permit fees, Engineering or other expert witness fees including Attorney's fees as well as the actual cost of the clean up. (DATE: MONITORING-Eng)
- 4. Prior to August 1, 2006, the property owner shall convey a roadway construction easement as follows:
 - a. Falcon Crane Way at Benoist Farms Road
 - b. Construction by the applicant within this easement shall conform to all Palm Beach County Standards and Codes. The location, legal sketches and the dedication documents shall be approved by the County Engineer prior to final acceptance. This roadway construction easement shall contain an isosceles trapezoid connecting the required corner clips across this property owners road right of way. Construction within this easement shall conform to Palm Beach County Standards. (DATE: MONITORING-Eng)
- 5. The property owner shall fund any required utility relocation costs associated with the Benoist Farms left turn lane construction required in the condition above. Limits of the required utility relocation shall be from the north right of way of McAllistor Way, north, to the end of the construction limits. Palm Beach County also has required turn lane construction on Benoist Farms Road at McAllistor Way. Palm Beach County will be responsible for Utility relocation costs along Benoist Farms Road from the north right of way of McAllistor Way south to the end of Palm Beach County construction limits. (ONGOING:ENG-Eng)
- 6. In order to comply with the mandatory Traffic Performance Standards, the Property owner shall be restricted to the following phasing schedule: No Building Permits for the site may be issued after May 25, 2009. A time extension for this condition may be approved by the County Engineer based upon an approved Traffic Study which complies with Mandatory Traffic Performance Standards in place at the time of the

request. This extension request shall be made pursuant to the requirements of Article 2, Section E of the Unified Land Development Code. (DATE: MONITORING-Eng)

HEALTH

1. Property owners and operators of facilities generating industrial, hazardous or toxic waste shall not deposit or cause to be deposited any such waste into the sanitary sewer system unless adequate pretreatment facilities approved by the Florida Department of Environmental Protection, the Palm Beach County Health Department, and the agency responsible for sewage works are provided and used. (ONGOING: CODE ENF-Health)

ZONING - LANDSCAPING

1. All landscaping shall be designed, installed and maintained in accordance with the landscape design concepts, including buffer widths, as shown on Kilday & Associates, Inc. Conceptual Landscape Plans dated January 04, 2006. (BLDG PERMIT: LANDSCAPE-Zoning)
2. Prior to Development Review Officer (DRO) approval, the applicant shall have submitted a Landscape Plan for review and approval by the Landscape Section. The plan shall be generally consistent with the Conceptual Landscape Plans prepared by Kilday & Associates, Inc. and dated January 04, 2006 and the Variance Exhibit submitted with the Board of Adjustment petition BA 2005-01705. (DRO:LANDSCAPE-Zoning)
3. A minimum of sixty-five (65) percent of canopy trees to be planted in the landscape buffers shall be native and meet the following minimum standards at installation:
 - a. tree height: Fourteen (14) feet;
 - b. trunk diameter: three and one-half (3.5) inches measured at four and one-half (4.5) feet above grade;
 - c. canopy diameter: Seven (7) feet diameter shall be determined by the average canopy radius measured at three (3) points from the trunk to the outermost branch tip. Each radius shall measure a minimum of three and one-half (3.5) feet in length; and,
 - d. credit may be given for existing or relocated trees provided they meet ULDC requirements. (BLDG PERMIT:LANDSCAPE-Zoning)
4. All canopy trees to be planted in the inventory storage areas shall be native and meet the following minimum standards at installation:
 - a. tree height: Sixteen (16) feet;
 - b. trunk diameter: three and one-half (3.5) inches measured at four and one-half (4.5) feet above grade;
 - c. canopy diameter: Seven (7) feet diameter shall be determined by the average canopy radius measured at three (3) points from the trunk to the outermost branch tip. Each radius shall measure a minimum of three and one-half (3.5) feet in length; and,
 - d. credit may be given for existing or relocated trees provided they meet ULDC requirements. (BLDG PERMIT:LANDSCAPE-Zoning)
5. A group of three (3) or more palms may not supersede the requirement for a canopy tree in that location, unless specified herein. (BLDG PERMIT: LANDSCAPE-Zoning)

6. Field adjustment of plant material locations may be permitted to provide pedestrian sidewalks/bike paths and to accommodate transverse utility or drainage easements crossings and existing vegetation. (BLDG PERMIT: LANDSCAPE-Zoning)

ZONING – LANDSCAPING ALONG THE WEST PROPERTY LINE (FRONTAGE OF SANSBURY'S WAY)

1. In addition to the proposed landscaping and code requirements, landscaping along the west property line shall be upgraded to include:
 - a. a minimum twenty (20) foot wide landscape buffer strip;
 - b. a minimum tree height: Sixteen (16) feet; and,
 - c. one (1) palm or pine for each for each twenty (25) linear feet of the property line with a maximum spacing of sixty (60) feet between clusters. (BLDG PERMIT: LANDSCAPE-Zoning)

LIGHTING

1. All outdoor lighting shall be extinguished no later than one-half (1/2) hour after operating hours excluding security lighting only. (ONGOING: CODE ENF - Zoning)
2. The lighting conditions above shall not apply to proposed security or low voltage landscape/accent type lights used to emphasize plant material. (ONGOING: CODE ENF - Zoning)

MASS TRANSIT

1. The location of an easement for a Bus Stop Boarding and Alighting Area, subject to the approval of Palm Tran shall be shown on the Master Plan and/or site plan prior to final approval of the Development Review Officer (DRO). The purpose of this easement is for the future construction of mass transit infrastructure in a manner acceptable to Palm Tran. (DRO: PALM TRAN-Palm Tran)
2. Prior to Plat Recordation, the property owner shall convey and/or dedicate to Palm Beach County an easement for a Bus Stop Boarding and Alighting Area in a form with terms and conditions approved by Palm Tran. Supporting documentation, including but not limited to, a location sketch, legal description, affidavit of ownership, attorney title opinion and other related documents as deemed necessary by Palm Tran. (PLAT: ENG-Eng)

SIGNS

1. Freestanding signs fronting on Sansbury's Way shall be limited as follows:
 - a. maximum sign height, measured from finished grade to highest point fifteen (15) in height;
 - b. maximum sign face area per side - one hundred (100) square feet;
 - c. maximum number of signs: one (1) for this road frontage;
 - d. style - monument style only;
 - e. location - within fifty (50) feet of the southern access point on Sansbury's Way; and,
 - f. sign shall be limited to identification of tenant only. (BLDG PERMIT: BLDG - Zoning)

UTILITIES

1. If any relocations/modifications to the County's existing facilities are required that are a direct or indirect result of the development, the developer shall pay for the complete design and construction costs associated with these relocations/modifications. (ONGOING: PBCWUD-PBCWUD)

COMPLIANCE

1. In granting this approval, the Board of County Commissioners relied upon the oral and written representations of the petitioner both on the record and as part of the application process. Deviations from or violation of these representations shall cause the approval to be presented to the Board of County Commissioners for review under the compliance condition of this approval. (ONGOING: MONITORING - Zoning)
2. Failure to comply with any of the conditions of approval for the subject property at any time may result in:
 - a. The issuance of a stop work order; the issuance of a cease and desist order; the denial or revocation of a building permit; the denial or revocation of a Certificate of Occupancy; the denial of any other permit, license or approval to any developer, owner, lessee, or user of the subject property; the revocation of any other permit, license or approval from any developer, owner, lessee, or user of the subject property; revocation of any concurrency; and/or
 - b. The revocation of the Official Map Amendment, Conditional Use, Requested Use, Development Order Amendment, and/or any other zoning approval; and/or
 - c. A requirement of the development to conform with the standards of the ULDC at the time of the finding of non-compliance, or the addition or modification of conditions reasonably related to the failure to comply with existing conditions; and/or
 - d. Referral to code enforcement; and/or
 - e. Imposition of entitlement density or intensity.

Staff may be directed by the Executive Director of PZ&B or a Code Enforcement Special Master to schedule a Status Report before the body which approved the Official Zoning Map Amendment, Conditional Use, Requested Use, Development Order Amendment, and/or other zoning approval, in accordance with the provisions of Article 2.E of the ULDC, in response to any flagrant violation and/or continued violation of any condition of approval.

Appeals of any departmental administrative actions hereunder may be taken to the Palm Beach County Board of Adjustment or as otherwise provided in the Unified Land Development Code (ULDC), as amended. Appeals of any revocation of an Official Zoning Map Amendment, Conditional Use, Requested Use, Development Order Amendment or other actions based on a Board of County Commission decision shall be by petition for writ of certiorari to the Fifteenth Judicial Circuit. (ONGOING: MONITORING - Zoning)